



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,551	02/07/2002	Garth R. Andrus	12587-004001	3452

26212 7590 04/11/2006

FISH & RICHARDSON P.C.  
P.O. BOX 1022  
MINNEAPOLIS, MN 55440-1022

EXAMINER
----------

OUELLETTE, JONATHAN P

ART UNIT	PAPER NUMBER
----------	--------------

3629

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/072,551	ANDRUS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jonathan Ouellette	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-41 are rejected under 35 U.S.C. 102(e) as being anticipated by McFarlane et al. (US 2002/0111887 A1).**
3. As per **independent Claims 1, 12, 22, and 32**, McFarlane discloses a method (system, apparatus, computer-readable medium) comprising: obtaining human performance related data from at least one remotely located application service provider (Para 0020-0022, Fig.2, Import Log Files); organizing the data into at least one metric (Para 0010, Para 0022, Internet browsing or email); preparing an interpretation of the data organized into at least one metric (Para 0011, Para 0023, Summary table compiled); and providing interactive, on-line access to the data organized into at least one metric and to the interpretation (Para 0024, Fig.1, information available through networked work stations).
4. As per Claims 2, 13, 23, and 33, McFarlane discloses wherein obtaining human performance related data comprises obtaining the data from at least one locally stored application (Para 0020-0022, log files from servers could be local or external).

5. As per Claims 3, 14, 24, and 34, McFarlane discloses wherein organizing the data into at least one metric comprises metrics that can be customized by a user (Para 0028, information can be organized/accessible by organizational structure).
6. As per Claims 4, 17, 27, and 37, McFarlane discloses wherein organizing the data into at least one metric comprises maintaining a historical record of data organized into at least one metric (Para 0026).
7. As per Claims 5, 15, 25, and 35, McFarlane discloses wherein organizing the data into at least one metric comprises organizing the data at an individual level, a group level and an enterprise level (Para 0028, Fig.6, Para 0045).
8. As per Claims 6, 16, 26, and 36, McFarlane discloses herein preparing the interpretation comprises identifying if a predetermined set point value for the data organized into at least one metric has been exceeded (Para 0023, top 10% usage color-coded).
9. As per Claims 7, 18, 28, and 38, McFarlane discloses wherein preparing the interpretation comprises comparing a value of the data with a value of a predetermined goal (Para 0011, Para 0023, top 10% usage color-coded red, etc.).
10. As per Claims 8, 19, 29, and 39, McFarlane discloses calculating a projected cost savings that could be realized if the value of the data is equal to the value of the predetermined goal (Para 0046 – identifying improper or excessive use of resources (equates to company costs), by comparing total usage to no usage).
11. As per Claims 9, 20, 30, and 40, McFarlane discloses wherein preparing the interpretation comprises determining a recommended action based on the data (Para

Art Unit: 3629

0023-0024, usage reports clearly show high usage in need of detailed review – closer review to determine if employee is adhering to company policy regarding Internet usage).

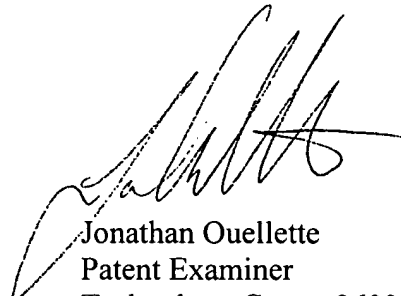
12. As per Claim 10, McFarlane discloses wherein providing interactive, on-line access to the data organized into at least one metric and the interpretation comprises providing access to at least one intention based link (Para 0024, reports available by clicking on an icon).
13. As per Claims 11, 21, 31, and 41, McFarlane discloses organizing the at least one metric into at least one category (Para 0010, e-mail, internet browsing).

### *Conclusion*

14. Additional Literature has been referenced on the attached PTO-892 form, and the Examiner suggests the applicant review these documents before submitting any amendments.
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.

17. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

jo  
April 5, 2006



Jonathan Ouellette  
Patent Examiner  
Technology Center 3600